

94TH CONGRESS
1ST SESSION

H. R. 2351

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 1975

Mrs. SCHROEDER introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to guarantee to each employee in the competitive service who has completed the probationary or trial period, the right to a hearing, a hearing transcript, and all relevant evidence prior to a final decision of an agency to take certain action against such an employee, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Employee Ad-
4 ministrative Hearing Rights Guarantee Act".

5 SEC. 2. It is the purpose of this Act to guarantee to
6 employees in the competitive service a prompt evidentiary
7 hearing conducted by an impartial individual prior to his re-
8 moval or suspension without pay.

1 SEC. 3. Section 7501 of title 5, United States Code, is
2 amended to read as follows:

3 “§ 7501. Cause; procedure

4 “(a) An individual who has completed a probationary
5 or trial period as an employee of an executive agency or as
6 an individual employed by the government of the District of
7 Columbia, other than an employee whose appointment is re-
8 quired by the Congress to be confirmed by, or made with the
9 advice and consent of, the Senate, or an employee whose
10 appointment is made under section 1001 of title 39, United
11 States Code, may be removed, suspended without pay, or
12 reduced in rank or pay, only for such cause as will promote
13 the efficiency of the service.

14 “(b). An individual in the competitive service, who has
15 completed a probationary or trial period and whose removal
16 or suspension without pay is sought is, prior to such removal
17 or suspension, entitled to—

18 “(1) at least thirty days' advance written notice of
19 the action sought, except when there is reasonable cause
20 to believe such individual is guilty of a crime for which
21 a sentence of imprisonment can be imposed, stating any
22 and all reasons specifically and in detail, for the proposed
23 action;

24 “(2) receive, at the time of the notice required
25 under paragraph (1), all statements, affidavits, investi-

1 gative reports, and all other evidence relevant to the
2 proposed action;

3 “(3) a hearing before a hearing examiner (who
4 shall be an attorney licensed to practice in at least one
5 State or territory of the United States) at which such
6 individual may be represented by counsel, present evi-
7 dence, and cross-examine witnesses;

8 “(4) a copy of the verbatim transcript of the hear-
9 ing; and

10 “(5) a written decision by the hearing examiner
11 stating the findings of fact and conclusions of law upon
12 which the decision is based.

13 “(c) For purposes of subsection (b) —

14 “(1) The hearing examiner shall, upon applica-
15 tion of any party to a hearing under subsection (b) (3),
16 issue subpoenas requiring the attendance and testimony
17 of witnesses or the production of any evidence in such
18 proceeding or investigation requested in such applica-
19 tion. Within five days after the service of a subpoena
20 on a person requiring the production of any evidence
21 in the possession or under the control of such person,
22 such person may petition the hearing examiner to
23 revoke such subpoena. The hearing examiner shall revoke
24 such subpoena if in his or her opinion the evidence of
25 which production is required does not relate to any

1 matter under investigation, or any matter in question
2 in such proceedings, or if in his or her opinion such
3 subpoena does not describe with sufficient particularity the
4 evidence of which production is required. The hearing
5 examiner may administer oaths and affirmations, ex-
6 amine witnesses, and receive evidence. Such attendance
7 of witnesses and the production of such evidence may
8 be required from any place in the United States or any
9 territory or possession thereof, at any designated place
10 of hearing.

11 “(2) In case of contumacy or refusal to obey a
12 subpoena issued to any person, any district court of the
13 United States or the United States courts of any territory
14 or possession, or the District Court for the District of
15 Columbia, within the jurisdiction of which the inquiry is
16 carried on or within the jurisdiction of which the person
17 guilty of contumacy or refusal to obey is found or
18 resides or transacts business, shall upon application by
19 the party seeking compliance have jurisdiction to issue
20 such person an order requiring such person to appear
21 before the hearing examiner, or, if so ordered, to produce
22 evidence or to give testimony touching the matter under
23 investigation or in question. Any failure to obey such
24 order of the court may be punished by such court as a

1 “(d) The decision of the hearing examiner shall be final
2 as to findings of fact, except that, an individual suffering
3 an adverse decision may bring an action in the district court
4 of the United States for the district in which the individual
5 resides, the district in which such adverse decision was made,
6 or in the District Court for the District of Columbia, for
7 judicial review of the conclusions of law of such decision.

8 “(e) The parties to the negotiated collective bargaining
9 agreement may agree to implement or substitute in whole
10 or in part the above procedure as part of a collective bar-
11 gaining agreement.”

12 SEC. 4. (a) Subchapter II of chapter 75 of title 5,
13 United States Code, is hereby repealed.

14 (b) Section 7701 of title 5, United States Code, is
15 hereby repealed.

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By Mrs. Schroeder

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